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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,064	03/26/2004	David B. Gill	3962 P 028	8082

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EXAMINER

LUGO, CARLOS

ART UNIT

PAPER NUMBER

3676

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/811,064

Applicant(s)

GILL, DAVID B.

Examiner

Carlos Lugo

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. The specification is objected to because of the following informalities:

- Page 5 Line 3, change "spindle 226" to -spindle 224-.
- Page 5 Line 20, change "spindle 214" to -spindle 224-.

Appropriate correction is required.

### *Claim Objections*

2. **Claim 13 is objected** to because of the following informalities:

- Claim 13 Line 2, change "o longer" to -no longer-.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-5,8,16-21,31-34, and 36 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 5,400,473 to Delman.

Regarding claims 1,16,18 and 19, Delman discloses an operator for a rotatable spindle comprising a hub (30) having a receiver (31), adapted to connect to the spindle (41), and an arm (where 35 is located) extending from the receiver.

The operator further comprises a handle (20) having a cavity (24) and pivotally connected to the arm. The handle is pivotable between a closed position, wherein a

portion of the receiver is positioned within the cavity (Figure 3), and an open position, wherein the receiver is substantially outboard of the cavity (Figure 2).

As to claims 2, 20 and 21, Delman illustrates that the handle further comprises a base and a pair of sidewalls extending from the base and first and second ends, wherein the base and sidewalls define the cavity.

As to claim 3, Delman discloses that the handle further comprises a knob (23) rotatably connected to the base.

As to claim 4, Delman discloses that the receiver (31) has a bore adapted to receive a portion of the spindle.

As to claim 5, Delman discloses that the handle further comprises means (22) for retaining the handle in the open position.

As to claims 8 and 17, Delman discloses that the operator further comprises a pin (35), wherein the pin pivotally connects the handle to the arm.

As to claim 31, Delman discloses a fold down operator comprising a hub (30) having a receiver (31) adapted to connect to a spindle (41) and an arm (where 35 is located) extending from the receiver; a handle (20) having a base and a pair of sidewalls extending from the base, wherein the base and sidewalls define a cavity; and a pin (35) pivotally connecting the handle to the arm, wherein the handle is pivotable between a closed position wherein a portion of the receiver is positioned within the cavity, and an open position, wherein the receiver is outboard of the cavity.

As to claim 32, Delman discloses that the operator further comprises a cover (11) adapted to cover the rotary device.

As to claim 33, Delman discloses that the handle is positioned substantially flush with the cover when the handle is in the closed position (Figure 2).

As to claim 34, Delman discloses that the cover has an opening positioned around the rotatable spindle.

As to claim 36, Delman illustrates that the handle has a first end and a second end, wherein the handle has a knob (23) rotatably connected to the second end.

5. **Claims 1-31 and 36-47 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 6,450,063 to Harvey et al (Harvey).

Regarding claims 1,16,18 and 19, Harvey discloses an operator for a rotatable spindle comprising a hub (20) having a receiver (29), adapted to connect to the spindle shaft, and an arm portion (32) extending from the receiver.

The operator further comprises a handle (10) having a cavity (17) and pivotally connected to the arm (at 21). The handle is pivotable between a closed position, wherein a portion of the receiver is positioned within the cavity (Figure 3), and an open position, wherein the receiver is substantially outboard of the cavity (Figure 2).

As to claims 2,20 and 21, Harvey illustrates that the handle further comprises a base and a pair of sidewalls extending from the base and first and second ends, wherein the base and sidewalls define the cavity.

As to claim 3, Harvey discloses that the handle further comprises a knob (13) rotatably connected to the base.

As to claim 4, Harvey discloses that the receiver (29) has a bore adapted to receive a portion of the spindle.

As to claim 5, Harvey discloses that the handle further comprises means (24) for retaining the handle in the open position.

As to claim 6, Harvey discloses that the means for retaining the handle in the open position is a spring (24).

As to claim 7, Harvey discloses that the spring is a leaf spring positioned in spaced relationship from an engagement surface of a nose (at 27).

As to claims 8 and 17, Delman discloses that the operator further comprises a pin (21), wherein the pin pivotally connects the handle to the arm.

As to claim 9, Harvey discloses that the operator further comprises a leaf spring (24) in spaced relationship from a mating surface (27) and wherein the handle is moveable to a deployed position such that the leaf spring is brought into engagement with the mating surface.

As to claims 10, 25 and 38-40, Harvey discloses that an intermediate position is defined between the closed position and the open position, wherein the arm (where 21 is located) flexes the leaf spring when the handle is in the intermediate position.

As to claims 11, 26 and 44, Harvey discloses that the flexing of the leaf spring provides tension that supports the weight of the handle.

As to claim 12, Harvey discloses that the arm flexes the leaf spring (24) as the handle moves towards the open position to thereby provide a force of frictional engagement between the spring and the mating surface.

As to claim 13, Harvey discloses that the handle drops back to the closed position when the handle moves from the intermediate position to the closed position and the leaf spring is no longer engaged with the mating surface.

As to claims 14,15,29,30,41,42,46 and 47, Harvey illustrates that the leaf spring (24) is un-flexed when the handle is in the closed position and in the open position (Figures 2 and 3).

As to claim 22, Harvey discloses that the handle has a leaf spring (24) positioned inside the cavity.

As to claims 23 and 24, Harvey discloses that the leaf spring confronts the arm as the handle is pivoted from the closed position to the open position, to maintain the handle in the open position (from Figures 3 to Figure 2).

As to claim 27, Harvey illustrates that the arm flexes the leaf spring in a second portion of the intermediate position as the handle moves towards the closed position providing tension that supports the weight of the handle.

As to claims 28 and 45, Harvey illustrates that the handle snaps into the open position when the handle moves from the intermediate position to the open position.

As to claim 31, Harvey discloses a fold down operator comprising a hub (20) having a receiver (29) adapted to connect to a spindle and an arm (32) extending from the receiver; a handle (10) having a base and a pair of sidewalls extending from the base, wherein the base and sidewalls define a cavity; and a pin (21) pivotally connecting the handle to the arm, wherein the handle is pivotable between a closed

position wherein a portion of the receiver is positioned within the cavity, and an open position, wherein the receiver is outboard of the cavity.

As to claim 36, Harvey illustrates that the handle has a first end and a second end, wherein the handle has a knob (13) rotatably connected to the second end.

As to claim 37, Harvey discloses that the operator further comprises a leaf spring (24) connected to the handle, wherein the leaf spring is adapted to confront the arm as the handle is moved between the closed position and open position.

As to claim 43, Harvey discloses a fold down operator comprising a hub (20) having a receiver (29) adapted to connect to the spindle and an arm (32); a handle (10) pivotally connected to the arm; and a leaf spring (24) connected to the handle and confronting the arm.

The handle is movable between a closed position and an open position, an intermediate position defined between the closed position and the open position, wherein the arm flexes the leaf spring when the handle is in the intermediate position.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claim 35 (as applied to claim 31 and 32 above) and claims 48-50 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,400,473 to Delman in view of US Design Pat No D497,304 to Stoll et al (Stoll).



Delman fails to disclose that the operator comprises a cover that includes an outer recess that receives the knob of the handle. Delman discloses that the cover (11) has a ramp portion wherein the handle (20) rests.

Stoll teaches that it is well known in the art to provide a cover member with a recess that will receive the knob portion of a handle. The knob has a terminal end surface that is exposed at the open terminal end of the cover recess and at least a portion of the knob extends outward of the cover recess when the handle is in the storage configuration (Figures 1-8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the cover described by Delman with a recess, as taught by Stoll, in order to secure the handle.

8. **Claim 32-35 (as applied to claim 31 above) and claims 48-53 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,450,063 to Harvey et al (Harvey) in view of US Design Pat No D497,304 to Stoll et al (Stoll).

As to claims 32-35 and 48-50, Harvey fails to disclose that the operator comprises a cover that includes an outer recess that receives the knob of the handle.

Stoll teaches that it is well known in the art to provide a cover member with a recess that will receive the knob portion of a handle. The knob has a terminal end surface that is exposed at the open terminal end of the cover recess and at least a portion of the knob extends outward of the cover recess when the handle is in the storage configuration (Figures 1-8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the operator described by Harvey with a cover having a recess, as taught by Stoll, in order protect the interior of the assembly and to secure the handle at the rest position.

As to claim 51, Harvey discloses that the handle has a cavity positioned adjacent the connection to the arm, and a spring member (24) positioned within the cavity to engage a surface of the arm when the handle is moved between use and storage configurations.

As to claim 52, Harvey discloses that the spring member is a leaf spring positioned relative the arm to engage a protruding terminal end of the arm.

As to claim 53, Harvey discloses that the protruding end of the arm comprises a body portion having a terminal end surface and a thickness between the terminal end surface and the hinge axis being greater than a thickness between an adjacent surface and the hinge axis.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-272-7049.

Art Unit: 3676

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L.

Carlos Lugo  
AU 3676

November 15, 2005..

  
**BRIAN E. GLESSNER**  
**SUPERVISORY PATENT EXAMINER**